



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2021-0778]

RIN 1625-AA09

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Morrison Bridge across the Willamette River, mile 12.8, at Portland, OR. Multnomah County, Oregon, the bridge owner, is requesting to change the current regulation to allow painting and preservation of the Morrison Bridge including the double bascule span. The modified rule would change normal bridge operations from a full span opening to a single leaf, or half span opening.

DATES: This rule is effective from 7 p.m. on April 1, 2022, through 7 p.m. on May 31, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>. Type USCG-2021-0778 in the “SEARCH” box and click "SEARCH." In the Document Type column, select “Supporting & Related Material.”.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206-220-7282; e-mail d13-smb-d13-bridges@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
TFR	Temporary Final Rule
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
County	Multnomah County, Oregon Bridge Owner

II. Background Information and Regulatory History

On November 24, 2021, the Coast Guard published a notice of proposed rulemaking entitled “Drawbridge Operation Regulation; Willamette River, Portland, OR” in the Federal Register (86 FR 66988). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this temporary rule modification. During the comment period that ended December 27, 2021, we received no comments for this final rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499. The Morrison Bridge across the Willamette River, mile 12.8, at Portland, OR, is a double bascule draw bridge. The subject bridge provides a vertical clearance of 69 feet, at center, and 48 feet on the sides in the closed-to-navigation position. The vertical clearance is unlimited when the draw is in the open-to-navigation position. All clearances are based on the Columbia River Datum 0.0. Marine traffic on this section of the Willamette River consists of vessels ranging from small pleasure craft up to large commercial vessels and barges. The Morrison Bridge operates in accordance with 33 CFR 117.897(c)(3)(iv). The county will be painting and preserving the Morrison Bridge including the double bascule span. The modified rule will change bridge operations from a full span opening to a single leaf, or half span opening. The purpose of this rule is to

ensure safety of vessels and the navigable waters below the bridge.

IV. Discussion of Comments, Changes and the Rule

The Coast Guard provided a comment period of 30 days due to the fact the County had also performed an outreach to the waterway stakeholders before contacting the Coast Guard for this temporary rule request. As noted above, we received no comments on our NPRM published November 24, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary change to 33 CFR 117.897(c)(3)(iv) to be in effect from 7 p.m. on April 1, 2022, through 7 p.m. on May 31, 2023. This rule temporarily suspends the current regulatory cite regarding the Morrison Bridge, and adds a temporary 33 CFR 117.897(c)(3)(vi) which amends the operating schedule of the Morrison Bridge by requiring a two-hour notice, or four-hour notice with tug assist, for all drawbridge vessel openings. By operating in single leaf opening mode the horizontal clearance of the bridge draw will be reduced by half that of a double leaf opening (dimensions are described below). The temporary rule is necessary to accommodate preservation and painting of the Morrison Bridge.

This bridge provides a vertical clearance approximately 69 feet, at the center, above Columbia River Datum 0.0 when in the closed-to-navigation position. One half of the bascule bridge will have a containment system installed on the non-opening half of the span, which will reduce the vertical clearance by 5 feet to 64 feet center and 43 feet on the sides. A tug will be available for assists to mariners as needed when a request is given with a notice of four hours for an opening. The horizontal clearance with a full opening is 185 feet, therefore, in single leaf operations, a temporary rule change will reduce the horizontal clearance to approximately 90 feet. Vessels able to transit under the Morrison Bridge without an opening may do so at any time. Marine vessels are advised to be aware of fall hazards. This section of the Willamette River has no alternate

routes. During the Portland Rose Festival, both leafs of the double bascule span will be fully operational. If any mariner submits a full opening request to the County prior to construction beginning on April 1, 2022, a full opening can be scheduled. All marine emergency vessels can navigate under the Morrison Bridge without an opening, and therefore do not need to contact the Hawthorne Bridge for an emergency opening.

The County will open the Morrison Bridge's span in single span mode, half of the double bascule span, to marine vessels with a minimum of two-hour notice, or a four-hour notice if a tug assist is needed. We published that the west span will be operational at the beginning of construction and the east span will be closed to navigation. The dates to switch operational spans will be determined later and published in the Local and Broadcast Notice to Mariners. This temporary rule also allows a containment system under the bridge that reduces the non-opening half of the bridge's vertical clearance by 5 feet from 69 feet center to 64 feet, and from 48 feet on the sides to 43 feet.

This regulatory action determination is based on the ability of the Morrison Bridge to open on signal after the Hawthorne Bridge, at Willamette River mile 13.1, has received at least a two-hour notice, or four-hour notice for tug assist, by telephone at 503-988-3452 or VHF channel 13 radio request. The Coast Guard has made this finding based on the fact that this temporary rule allows any vessel needing a drawbridge opening to transit through the Morrison Bridge after providing adequate notice and being provided with tug assistance if required.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits

of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability that vessels can still safely transit the bridge given advanced notice. In single leaf operations, the horizontal clearance will be approximately 90 feet. Vessels needing over 90 feet of vertical clearance will be able to safely transit using available tugs after giving four hours’ notice. Vessels able to transit under the Morrison Bridge without an opening may do so at any time.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security

Delegation No. 0170.1.

2. Amend § 117.897 by:

- a. Staying paragraph (c)(3)(iv).
- b. Adding paragraph (c)(3)(vi).

The addition reads as follows:

§ 117.897 Willamette River.

* * * * *

(c) * * *

(3) * * *

(vi) Morrison Bridge, Portland, mile 12.8, will open a single leaf of the double leaf bascule bridge, upon the receipt of a telephone (503-988-3452) or VHF channel 13 radio signal to the Hawthorne Bridge, at Willamette River mile 13.1, given at least a two-hour advance notice, or four-hour advance notice if tug assist is required.

Dated: February 16, 2022.

M. W. Bouboulis,

Rear Admiral, U. S. Coast Guard,

Commander, Thirteenth Coast Guard District.

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